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U.S. Department of the Interior
Bureau of Land Management

Eastern States
Milwaukee Field Office

May 1998

**MINERALS MANAGEMENT IN THE
LOWER PENINSULA OF MICHIGAN**

RESOURCE MANAGEMENT PLAN AMENDMENT

PROJECT PLAN

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1998
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INTRODUCTION

The Bureau of Land Management (BLM) administers approximately 157,000 acres of split-estate minerals in the Michigan lower peninsula. These minerals underlie small, privately owned surface properties as well as larger State tracts. Some of the minerals have high or moderate development potential, while other parcels are considered to have low mineral value. Given that most of the tracts are small, dispersed and split-estate, they are difficult to manage and develop. Some tracts have been leased in the past and some are being considered for exchange with the State and USDA, Forest Service. In some cases, split-estate tracts may be sold to surface owners under Section 209 of the Federal Land Policy and Management Act (FLPMA).

The BLM also administers approximately 70,000 acres of minerals which underlie surface lands that are managed by other Federal agencies in the lower peninsula of Michigan. These agencies include the Fish and Wildlife Service, the National Park Service, the Department of the Army, and the Air Force. Both the Fish and Wildlife Service and the National Park Service disallow mineral development, except for cases of drainage; thus, minerals management historically has been inactive under these properties. However, there has been minor interest in mineral development on military lands. The lower peninsula also encompasses approximately 965,000 acres, but minerals management has been cooperatively planned for and conducted by the BLM and USDA, Forest Service.

The BLM, Milwaukee Field Office (MFO) recognizes that the administration of split-estate minerals may create conflicts in effective and efficient management of both the surface and subsurface estates. The MFO also recognizes its responsibilities and limitations under existing Federal mineral leasing laws, FLPMA, and current guidelines regarding the disposal of Federal minerals. It also recognizes that a goal of reconsolidating the surface and subsurface estates will provide effective and long-term management of both the surface and subsurface resources, and will be in the public interest.

In 1990, the MFO prepared a review draft called the *Planning Analysis/Environmental Assessment for Oil and Gas Leasing on Split-Estate Lands in the State of Michigan* (hereafter Michigan PA/EA). Although the Michigan PA/EA does not meet current guidance to make resource allocations, it contains significant amounts of information and data which could be used in this new planning effort. Before using the information, however, it should be reviewed for accuracy and completeness. (The existing plan for Michigan that addresses minerals, approved in 1985, is less comprehensive than the 1990 draft and did not have a National Environmental Policy Act (NEPA) component. It set general minerals management direction, but without the necessary determinations. We will amend this plan.)

A plan amendment, which meets current planning policy, would provide management direction and make resource allocations for Federal mineral estate management in the State. The plan would assess whether certain tracts should be sold, exchanged or leased, and set conditions under which leasing, sales or exchanges would be undertaken. Split-estate mineral management will be the primary focus. Mineral management of the Forest Service lands would not be considered as management direction is provided in existing forest plans.



This project plan, which identifies the purpose and need for a management plan, includes preliminary planning issues and criteria, information needs, preliminary plan alternatives, personnel and operational funding requirements (including contracts), team organization, and public involvement plan.

PURPOSE AND NEED FOR A MANAGEMENT PLAN

The central goal for preparing a plan for Michigan is to promote effective allocation and management of the mineral estate. Without a plan, BLM managers forego decisions involving use or disposal of the mineral estate. For example, minerals under BLM's administration cannot be leased. Drainage may occur in some instances or Federal minerals will be included in drilling units that return less royalties than could be otherwise expected. For other lands, exchanges may be a more suitable option than leasing, but cannot be considered without a planning base.

The MFO will begin a plan that addresses these issues. However, because the Federal mineral ownership (FMO), and in particular split-estate minerals, in the lower peninsula occur as widely scattered, usually small tracts, an in-depth analysis of all parcels is not feasible. For this reason, the NEPA scoping process will help identify areas which merit a full environmental analysis. In those areas, the plan may be sufficient to proceed with lease sales, exchanges, or disposal. It may be discovered that no areas meet the criteria for in-depth analysis, and the plan will serve as planning guidance from which site-specific analyses will be conducted as industry or exchange proponents come forward.

PRELIMINARY PLANNING ISSUES AND CRITERIA

PLANNING ISSUES: The Bureau defines a planning issue as:

A matter of controversy or dispute over resource management activities or land uses that is well defined or topically discrete and entails alternatives among which to choose.

While management of split-estate minerals may not strictly be a controversy or dispute, it does present BLM and surface owners with problems. In general, the lack of an adequate plan has led to inefficient minerals management with a resultant loss of Federal royalties.

BLM has been able to enter into reasonable communitization and unitization agreements with operators, but has not been proactive doing so. This has resulted in a few instances of Federal minerals being omitted from unit agreements. In some instances it has been necessary for BLM to commit unleased Federal minerals to compensatory royalty, communitization, and unitization agreements with operators to ensure efficient development of an oil and gas field. Pooling clauses are not included in either State of Michigan or Federal leases. Therefore, pooling must be accomplished through separate agreements. A plan that provides management direction for consolidation, disposal, or development of mineral



resources would limit the need for the separate procedures that are now required for efficient mineral production.

Other known concerns in Michigan include:

- Potential drainage of Federal minerals;
- Conflicts between subsurface resource development and surface uses;
- Recreational and land use conflicts in the northern Lower Peninsula;
- Public health and safety related to minerals development;
- Lack of cumulative impact analysis, particularly in regard to Antrim development;

One particularly sensitive issue in Michigan affects private property rights and associated "takings" issues. This involves both Federal regulation of operators who locate facilities on private surface lands and the rights of property owners who may be affected by land uses adjacent to their land. In the former instance, it is unclear how much authority BLM has to place protective measures on development activities. In the latter case, BLM may approve activities interferes with the peaceful enjoyment and use of adjacent properties. Under either scenario, lessees or private landowners may claim that their property rights are diminished or rendered valueless.

PLANNING CRITERIA: The Bureau defines planning criteria as:

Standards or rules and other factors developed for use in forming judgments about decisionmaking, analysis, and data collection during planning.

These criteria form standards for analysis purposes. Many criteria are merely restatements of existing Federal and State laws and regulations, and BLM policies, and will not be reproduced here. Other criteria would result from scoping. The initial criteria include:

Planning Area: Non-Forest Service FMO in the lower peninsula of Michigan. Based on available information, this involves 227,000 acres within most of the 68 counties in the lower peninsula.

To date, very little interest has been expressed by industry regarding solid minerals underlying split-estate lands. Mineral development potential exists for coal and gypsum in the northern and central lower peninsula, but none of these resources have been leased (see Map following this project plan). Therefore, it is recommended that solid minerals be excluded from any intensive data gathering, unless scoping



reveals significant leasing interest from industry.

Planning Horizon: 10 years.

Analysis Level: The depth of analysis will be dependent on several factors. These include:

- specificity of planning decisions (whether lands would be leased, exchanged or sold directly as a result of the plan);
- the intensity of conflict between subsurface resource development and surface resources and other uses;
- availability of data and appropriate environmental models;
- level of expertise of specialist.

Planning Framework: Management decisions will be consistent with and incorporate, to the extent possible, existing plans, programs and policies of other Federal and State agencies, and local and tribal governments. The planning effort will continue with and extend the principles of integrated resource management, particularly those standards identified in the Memorandum of Understanding, "Cooperative Ecosystem Management", between Federal agencies and the Michigan Department of Natural Resources (MDNR).

Management Criteria

The following examples provide the type of criteria that management would use to evaluate specific actions, such as disposal, exchange, leasing (and appropriate stipulations) and retention without active management prescriptions:

DISPOSAL (under FLPMA Section 209)

- Little or no mineral value/potential
- Surface value exceeds mineral value

EXCHANGE

- Development of mineral resource would have significant conflicts, which could not be mitigated, with existing or reasonable future surface uses
- Mineral access is precluded
- Remaining fractional interest could not be leased or obtained
- Mineral development would conflict with approved management plans or policies of other governmental entities

RETENTION/ACTIVE MANAGEMENT

- Mineral development would fit surface management agencies' policies and management plans
- No unmitigated conflicts with existing or reasonable future resource uses
- Area has high or moderate mineral development potential/value



- Where disposal would create another split-estate situation.

It should be noted that at the outset the document is an RMP Amendment/Environmental Assessment. As the project develops, it may be necessary to consider whether an environmental impact statement would be more appropriate.

Although scoping will sharpen the focus of the plan, the document will seek to *rationalize* our minerals management in the lower peninsula. Broad considerations would include either leasing, or disposing of FMO through sales or exchanges. Mineral estates with high and moderate value would be considered for leasing with appropriate stipulations, and low value mineral resources or those with significant use conflicts would be considered for exchange or sale.

Disposal of the fragmented FMO and consolidation of mineral ownership with surface ownership will provide an opportunity to participate in joint land use planning/management between the counties, the State, and non-governmental organizations.

DATA AND INFORMATION NEEDS

The 1990 draft Michigan PA/EA contains information on FMO acres by county, and a comprehensive listing of threatened and endangered species in the State. It also contains a development scenario that may be useful for this plan.

Specific information and data needs include:

- Identify split-estate mineral management areas (FMO), surface ownership (NOTE: F200 reports are the only source for this now and their accuracy and completeness are in doubt. (See discussion below regarding this issue);
- Identify surface natural resources (T&E, soils, water, cult/arch, socio-econ, etc.);
- Major rivers and lakes, wetlands, critical habitats, prime farmland;
- Mineral assessments;
- Public Land Survey System;
- Discussion of current and historical oil and gas development;
- Land use, including other Federal agency lands, county boundaries, major communities, transportation networks, parks, recreation areas and wildlife protection areas.

The level of data inventory and collection will be commensurate with anticipated level of analysis needed to make management decisions, e.g., areas with high or moderate mineral



potential, and exchange or sale interest.

Land Status Issue

FMO for split estate lands in the State of Michigan is composed of reserved Federal interests in:

- a.) Identification FMO reserved in patented public domain lands is made from examination of patent records located within BLM Eastern States Office.
- b.) Identification of FMO associated with disposed acquired lands requires examination of title documents for land acquisition cases in addition to examination of disposal deeds. Mineral rights identified as having been acquired by the Federal government are viewed against the corresponding disposal action to see if they were retained in Federal ownership. If reserved, scoping for subsequent title actions against the mineral estate, such as a mineral exchange or a FLPMA 209 action is necessary to update the title record.

As currently understood, Federal Farm Mortgage Corporation (FFMC) lands, Bankhead-Jones Land Utilization (BJLU) projects, Rural Resettlement projects, Farmers Home Administration lands are the principal types of acquired land that make up the acquired split estate in Michigan. BJLU transfers, deeds issued by the General Services Administration and the FFMC, Forest Service Exchanges, and Department of Agriculture-State of Michigan exchanges appear to be the primary land disposal actions. The precise status (e.g., mineral reservations) of these lands is likely to evolve and title research would be prioritized according to making specific proposals.

PRELIMINARY PLAN ALTERNATIVES

- 1) No action;
- 2) Leasing, including alternatives that identify areas for immediate leasing or leasing after conducting additional planning/NEPA analysis; or identify operating condition, mitigation measures and stipulations.
- 3) Disposal, including alternatives that consider sales and exchanges. Consolidation is the objective.
- 4) Combination of (1), (2), and/or (3).

TEAM ORGANIZATION

Project Management
Project Manager



The project manager is management's representative to the planning team. Although the project manager is not involved in the plan on a day-by-day basis, he/she will be consulted by the project coordinator on critical or controversial policy issues and actions related to personnel management of team members.

Project Leader

The project leader is responsible for overall management of the project. S/he will provide vision for the plan. The project coordinator is the point person for all external communications, discussions with other agencies for use of their personnel/services/data. The project coordinator has authority to make all substantive decisions related to the plan, in consultation with the project manager and management in other levels of the BLM.

Technical Coordinator

The technical coordinator is responsible for day-to-day management of technical, policy oversight/interpretation (both NEPA and minerals-related policies), and writing sections within their area of expertise. S/he will be responsible for selection of contractors if required. The incumbent will oversee contracts within their area of technical expertise or coordinate with the specialist who has the expertise.

Resource Disciplines

Data collection and analysis in the following disciplines will be needed to complete the plan. Individual specialist's time will vary depending on the level of detail required to provide sufficient analytical basis for decisionmaking.

Petroleum Engineering

- Typical operations, identification of mitigation measures

Geology (solids and fluids)

- Identification of mineralized areas
- Development potential
- Develop reasonable foreseeable development scenario (for areas identified for leasing).

Lands/Realty

- Split-estate mineral ownership (percentage of ownership)

Hydrology

- Groundwater and surface water resources and impact analysis

Wildlife Biology (fish, terrestrial wildlife, ecology, threatened and endangered species)

- Distribution of fish, avian and terrestrial wildlife species and impact assessment

Archaeology/Cultural Resources

- Identification of archaeological sites
- Coordination with tribes



Socioeconomics

- Mineral valuation
- Economic data collection and impact assessment

Soils

- Soil types and impact assessment

Hazardous materials

- Description of regulatory requirements
- Identification of hazardous materials issues

Miscellaneous specialties (air quality, noise, transportation, visual resources, recreation)

- Identification of regulatory requirements
- Resource descriptions and impact assessment

Technical/Clerical support

- GIS: data acquisition, manipulation, training for specialists, spatial data analytical and mapping products
- Graphics: for documents and presentations
- Clerical support: Travel, Correspondence
- Team facilitation: Someone external (to team)
- Public affairs: Brochures, identification of media contacts

Contracting

Given the scarcity of staffing in several resource specialties in MFO and the Eastern States Office, some elements of the plan may be accomplished more efficiently by third-party contracts or cooperating agencies. Examples of these include:

- Socioeconomics
- Water quality
- Archaeological/cultural resources
- Soils
- Air quality
- Noise
- Transportation

In addition, some data collection and analysis could be done by contractor, cooperating agencies, and/or interns. This may be necessary for disciplines that have in-house coverage and those which are outside of the current staff's areas of expertise. The need and extent of these contracts is currently unknown, and will continue to be until scoping is complete.

FUNDING REQUIREMENTS



The EMT approved \$15,000 for FY 1998. This money will be spent on data acquisition and travel to meetings with key stakeholders (see public participation plan).

It is difficult to calculate operational costs for FYs 1999 and 2000 prior to fully scope the plan. A previous estimate for minerals planning proposed \$60,000 for the second year and \$40,000 for the third and final year of the project (Preplan for Michigan PA/EA, unsigned document, 1992). Although the following items were included in the preplanning analysis of 1992, there was no breakdown by individual item:

- Printing/Copying
- Travel
- Publications: Federal Register and media notices
- Public meetings
- GIS data

It can be assumed that certain items may have been overestimated and others were too low and that inflation may add 10% to 15% to the total costs. For planning purposes, however, it is recommended that we use these estimates, subject to adjustment as the scope of the project becomes clearer later in FY 1998.

A significant cost will be the acquisition of resource information and GIS data. These items are usually packaged on a county basis and would have to be purchased county-by-county. Some data may be attained without cost. Other information may require digitizing, which could be done in-house or by contract. Therefore, it is impossible to identify exact costs until the plan is scoped, although a reasonable range may be \$10,000 to \$15,000. Outyear costs for data and information would diminish. Travel, room rentals for public meetings, and publication costs may approximate \$15,000.

Based on the discussion above, the range for total proposed (non-personnel) cost is broken down by fiscal year:

FY 1998:	\$15,000
FY 1999:	\$80,000-\$95,000
FY 2000:	<u>\$10,000-\$20,000</u>
Total:	\$105,000-\$115,000

THE PLANNING PROCESS AND SCHEDULE

As noted throughout this preplan, the Milwaukee Field Office is proposing to conduct the plan in a somewhat new way. More effort will be put into up-front consultation and public policy education. New approaches to involve the public will be tested. That scoping will be relied upon to help identify planning criteria, issues and alternatives is central to the success of the entire effort. Similarly, we must adjust our internal process to ensure that we develop a plan that can pass muster and chart an effective course for split-estate minerals management



in the State of Michigan.

See attached chart for identification of all planning actions, and completion dates for each action.

PUBLIC PARTICIPATION PLAN

Objectives of public participation

Because the plan can be reasonably expected to be complex, time-consuming, and possibly controversial, it is critical that we take time to develop a sound approach to public involvement, interagency coordination, data collection, and political consultation. The key to public involvement will be to focus resources on policy education (e.g., management concerns, planning process, NEPA, planning outcomes, local benefits, etc.)

Initial consultation

Early contact should be made with key stakeholders, such as the State, counties with significant amounts of FMO, other Federal surface management agencies with adjacent lands or technical expertise, interest groups and key State legislature and Congressional staffers. These meetings should focus on educating others on BLM's planning process and goals for preparing a plan, as well as identifying existing planning decisions, local concerns and potential for controversy.



Scoping

Scoping will begin with publication of notices in the Federal Register and in local newspapers. It may behoove us to aggressively market our planning process by meeting with editorial boards, attending interest groups' meetings, and going on radio talk shows. At these events, we should stress our fundamental goal for the plan, which is to find the most appropriate and environmentally sound way to manage the Federal mineral estate.

Workshops and public meetings

After we have identified areas which merit in-depth analysis, BLM should hold workshops, possibly in concert with counties and the State. These workshops will allow BLM and members of the public to discuss the future management of split-estate minerals, without conveying an impression that BLM is "trying" to lease specific tracts, or that leasing is our only objective. This approach may confuse some participants as to why BLM would not have a proposed action to comment on. Again, BLM should emphasize the education element of the workshops to accurately depict our process as open and based in large measure on public input. County and State participation in these meetings would also help define for the public these entities' regulatory roles and responsibilities in developing mineral resources.

Workshops and open houses will take the place of formal public meetings. Any interested party could attend these events in order to meet our FLPMA/NEPA mandates and the Federal Advisory Committees Act. It would be extremely useful to have good presentation materials and GIS available to facilitate discussions at these forums.

Information gathering and sharing

Newsletters and timely updates to the MFO website should allow us to regularly inform the public. The website would also enable the public to send comments throughout scoping and the rest of the project. The use of an interactive GIS at meetings and workshops would be another way to improve outreach, identifying impacts and areas of conflict/concern, and in developing alternatives. An interactive GIS would require a laptop computer and projection system. The computer would have ArcView software and an appropriate number of layouts that could be manipulated in response to public comment. Thus, participants could see *their* alternatives displayed in real time, rather than solely relying on what we would offer them in terms of spatial information.

These approaches would be repeated at the time the draft RMPA/EA is released. A governor's consistency review would be conducted at time of the draft RMPA.

Interested or affected public groups

The following agencies and groups should be consulted during the initial stages of planning. The list may change as new groups or individuals are identified or old ones become disinterested. As for the latter group, BLM should make an effort to keep key individuals engaged in our process through regular contact.

FEDERAL AGENCIES



FWS	NPS	USGS	EPA	NRCS	Forest Service
DEPARTMENT OF ARMY		US AIR FORCE			

STATE OF MICHIGAN

DNR: Michigan Natural Features Inventory, Coastal Zone Program, Div. of Forestry,
Div. of Wildlife, Div. of Oil and Gas
State Historical Preservation Officer
DEQ
DEPARTMENT OF MILITARY AFFAIRS

COUNTIES [Administrative staff]

Notify all counties with FMO, but coordinate closely with those with significant
FMO/high+moderate development potential.
Planning Commissions

ADVISORY BOARDS

COUNCILS OF GOVERNMENTS

NON-GOVERNMENTAL ORGANIZATIONS

Environmental Groups	Wildlife Groups	Recreation Groups
Land Use Groups	Unions	Industry

OTHER CONTACTS

Indian Tribes

POLITICAL CONTACTS

State Representatives and Senators
County Commissioners
Township supervisors (as appropriate)
U.S. Senators (directly with local reps, cc's to WO's)
U.S. Representatives (directly with local reps, cc's to WO's)

MEDIA

To be developed in consultation with external affairs

